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TO: MEMBERS OF THE SENATE FINANCIAL INSTITUTIONS COMMITTEE

DATE: February 15, 2016

SUBJECT: Strike everything amendment to S.B. 1441, relating to long-term care insurance; rates; premiums

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Purpose

Makes various changes to Arizona's long-term care insurance laws relating to premium increases by insurers.

Background

Private long-term care insurance provides coverage for services used by chronically ill or cognitively impaired persons who may require assistance with basic essential activities of daily living, such as eating and bathing, typically in their final years of life. Long-term care insurance policies may cover services provided by nursing homes and other assisted living facilities as well as in-home care services, most of which are traditionally not covered under Medicare.

The premium rates for long-term care insurance policies are set by making actuarial projections about the revenue levels that insurers need to derive from their policyholders to pay for future costs of providing services covered under these policies. This includes making assumptions about mortality rates, potential lapses in coverage by existing policyholders before they have the opportunity to file claims, the number of policyholders that will retain their coverage and ultimately file claims and the premium adequacy needed to ensure sufficient reserves for future benefits to policyholders.

Under current law, the Director of the Arizona Department of Insurance (Director) may adopt reasonable rules that promote long-term care insurance premium adequacy and protect policyholders in the event of substantial rate increases. The Director may adopt rules specifying: 1) the type or types of non-forfeiture benefits to be offered as part of a long-term care policy and certificate; 2) the standards for non-forfeiture benefits; and 3) the requirements for contingent benefit on lapse, including a determination of the specified period of time during which a contingent benefit on lapse will be available and the substantial premium rate increase that triggers the contingent benefit on lapse (A.R.S. § 20-1691.02).

No person may deliver or issue for delivery in this state any long-term care policy or rate unless: 1) the form or rate has been filed with the Director; and 2) the Director has approved

the form or rate. If disapproving the form or rate, the Director must provide the insurer with written notice specifying the reasoning for disapproval, which may occur if: 1) the rate is deemed not to be in compliance with statute and any applicable rule; or 2) the form contains provisions that are ambiguous, misleading or deceptive, that encourage misrepresentation of coverage or that are contrary to statute and any applicable rule. The insurer in turn may request an administrative hearing to contest the disapproval (A.R.S. § 20-1691.08).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Rate Increase Review and Approval

1. Requires the Director to consider the following in the review and approval of long-term care insurance rate increases:
   a) the actuarial assumptions used by the insurer to support the requested rate increase;
   b) documentation demonstrating that the actuarial assumptions used by the insurer to support the rate increase are based on actuarial and historical data that represent only the experience of policyholders in this state that may include:
      i. specific data on canceled and lapsed policies in this state;
      ii. data on experience relating to the payment of claims in this state; and
      iii. data relating to policies ended as a result of policyholder deaths in this state.
   c) documentation that is provided by the insurer illustrating the need for the rate increase in the long-term care exhibit included in the insurer's last three most recent annual statements.

2. Requires the Arizona Department of Insurance (Department), in considering a rate increase, to review the actuarial assumptions and projections used by the insurer to support the proposed rate increase, including whether the proposed rate increase is reasonably adequate to cover the future costs of services to be provided to the policyholders.

3. Requires the Director, in reviewing the soundness of the actuarial assumptions and projections used by the insurer to support the rate increase, to either:
   a) use the services of an independent actuary who is not affiliated with the insurer and who has experience in long-term care insurance pricing, the costs of which are to be paid from the Insurance Examiners' Revolving Fund and may be charged to and reimbursed by the insurer; or
   b) accept an independent actuarial review that was completed for another state if the review is for the same or substantially the same policy form and has been completed within 18 months after the rate increase request was filed.

4. Requires the Director, after reviewing the request for the rate increase, to do one of the following:

a) approve a single rate increase requested by the insurer, provided that the insurer agrees to forego future increases for a period of at least three years after the date that the new rate increase has been implemented by the insurer;
b) approve a series of scheduled rate increases, provided that the insurer agrees to forego future rate increases for a period of at least three years after the date that the series of rate increases has been implemented; or
c) decline to approve any rate increase if the actuarial assumptions or projections used by the insurer or documentation furnished by the insurer does not adequately substantiate a need for the rate increase.

5. Specifies that any premium increase may only be applied to a policy at the time of renewal.

Notification Requirement for Premium Increases and Benefit Changes

6. Requires an insurer to notify its policyholders at least 30 days in advance of the policy renewal date of any premium increase or change in benefits approved by the Department.

7. Requires a sample of the premium increase notifications to policyholders to be included in the rate increase filing to the Department and to contain all of the following:
   a) an illustration of the amount of the premium increase over the prior policy period premium;
   b) the implementation schedule of the premium increase, if the increase will be implemented in a series;
   c) a list of all options available to the policyholder that will reduce the amount of the premium increase, including the option to reduce the percentage of future inflation benefits for the policy before requiring the policyholder to reduce any earned or paid up benefits on the policy;
   d) a prominent disclosure that premiums are subject to future increases on renewal;
   e) an offer of any contingent benefit to the policyholder if the current policy lapses; and
   f) a list of all current policyholder benefits, including the current and pending status of return of premium on death and survivorship benefits to enable the policyholder to make an informed decision regarding actions the policyholder may take to reduce the amount of the premium increase.

8. Specifies that the option to reduce the percentage of future inflation benefits shall remain available to the policyholder at any time during the lifetime of the policy.

9. Specifies that if no inflation protection exists on the policy at the time of the premium increase, then the insurer is allowed to offer the policyholder the option to:
   a) lower the existing policy benefits;
   b) increase elimination periods; or
   c) offer other options to reduce the amount of the premium increase.

10. Requires an insurer to mail written notice to the policyholder of the renewal terms of the policy at least 60 days before the policy renewal date.

11. Requires the written renewal notice to include an explanation of the extent to which any premium increase is due to the actual or expected claims experience of the policyholders insured on that policy form.

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12. Changes the period of time that the Director has to issue an order either affirmatively approving or disapproving a form or rate for a long-term care insurance policy in this state from 30 days to 45 days.

13. Exempts the Department from rulemaking requirements for one year after the effective date of this legislation.

14. Makes technical and conforming changes.

15. Becomes effective on the general effective date.

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